Senate File 2261 - Introduced

SENATE FILE 2261 BY D. JOHNSON

A BILL FOR

- 1 An Act authorizing counties to adopt county legislation
- 2 relating to the regulation of confinement feeding operations
- 3 to preserve areas of vital economic value or environmental
- 4 significance, and including effective date provisions.
- 5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 1 Section 1. Section 331.304A, subsection 2, Code 2018, is
- 2 amended to read as follows:
- 3 2. a. A county shall not adopt or enforce county
- 4 legislation regulating a condition or activity occurring
- 5 on land used for the production, care, feeding, or housing
- 6 of animals unless the regulation of the production, care,
- 7 feeding, or housing of animals is expressly authorized by
- 8 state law. County legislation adopted in violation of this
- 9 section is void and unenforceable and any enforcement activity
- 10 conducted in violation of this section is void. A condition
- 11 or activity occurring on land used for the production, care,
- 12 feeding, or housing of animals includes but is not limited to
- 13 the construction, operation, or management of an animal feeding
- 14 operation, an animal feeding operation structure, or aerobic
- 15 structure, and to the storage, handling, or application of
- 16 manure or egg washwater.
- 17 b. Paragraph "a" does not apply to a special confinement
- 18 feeding operations ordinance as provided in section 459.305A.
- 19 Sec. 2. Section 335.2, Code 2018, is amended to read as
- 20 follows:
- 21 335.2 Farms exempt.
- 22 l. Except to the extent required to implement section
- 23 335.27, no ordinance adopted under this chapter applies to
- 24 land, farm houses, farm barns, farm outbuildings or other
- 25 buildings or structures which are primarily adapted, by reason
- 26 of nature and area, for use for agricultural purposes, while
- 27 so used. However, the ordinances may apply to any structure,
- 28 building, dam, obstruction, deposit or excavation in or on the
- 29 flood plains of any river or stream.
- 30 2. Subsection 1 does not apply to a special confinement
- 31 feeding operations ordinance as provided in section 459.305A.
- 32 Sec. 3. NEW SECTION. 459.305A Special confinement feeding
- 33 operations ordinance.
- 34 1. A county may adopt a special confinement feeding
- 35 operations ordinance. The purpose of the ordinance is to allow

- 1 the county board of supervisors to regulate the siting and
- 2 operation of a confinement feeding operation to ensure that it
- 3 does not impact an area of the county that has vital economic
- 4 value or environmental significance as determined by the county
- 5 board of supervisors. An area may include but is not limited
- 6 to a specific geographic location that is any of the following:
- 7 a. Devoted to tourism, recreation, hunting, or fishing.
- 8 b. Fragile or has a unique natural characteristic.
- 9 c. Environmentally sensitive, including but not limited to
- 10 a high quality resource or karst terrain.
- 11 2. a. A special confinement feeding operation ordinance
- 12 shall include findings of fact that support the board of
- 13 supervisors' conclusion that the ordinance is necessary
- 14 to protect areas of vital economic value or environmental
- 15 significance.
- 16 b. The ordinance may include greater or additional
- 17 restrictions on the construction, including expansion, of a
- 18 confinement feeding operation structure, or the application of
- 19 manure that originates from the confinement feeding operation
- 20 than otherwise provided in this subchapter, including rules
- 21 adopted by the department pursuant to this subchapter.
- 22 c. The ordinance or an action taken by a board of
- 23 supervisors pursuant to the ordinance is not subject to review
- 24 or approval by the department.
- 25 3. A person shall not construct, including expand, a
- 26 confinement feeding operation structure in a county that has
- 27 adopted a special confinement feeding operations ordinance
- 28 until the county board of supervisors has approved the location
- 29 of the confinement feeding operation in a manner and according
- 30 to procedures required in the ordinance.
- 31 a. The county board of supervisors may subject its approval
- 32 to conditions for the construction of the confinement feeding
- 33 operation structure, the operation of the confinement feeding
- 34 operation, or the application of manure originating from the
- 35 confinement feeding operation.

- 1 b. A person required to be issued a permit by the department
- 2 for the construction of a confinement feeding operation
- 3 structure as provided in section 459.303 must be issued such
- 4 permit prior to obtaining approval by the county board of
- 5 supervisors under this section.
- 6 c. A county board of supervisors may base its approval or
- 7 disapproval on factors other than factors considered by the
- 8 department when approving or disapproving an application to
- 9 construct the confinement feeding operation.
- 10 Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate
- 11 importance, takes effect upon enactment.
- 12 EXPLANATION
- The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.
- 15 This bill in part amends provisions in Code chapter 459
- 16 which authorize the department of natural resources to regulate
- 17 confinement feeding operations, including by issuing permits
- 18 for the construction or expansion of structures associated with
- 19 a confinement feeding operation (e.g., a building or manure
- 20 storage structure).
- 21 The bill provides that a county may adopt a special
- 22 confinement feeding operations ordinance which allows a county
- 23 board of supervisors to regulate confinement feeding operations
- 24 based on a determination by the county's board of supervisors
- 25 that it is necessary in order to preserve areas of vital
- 26 economic value or environmental significance. The ordinance
- 27 may require the board to approve the site of a confinement
- 28 feeding operation structure, the operation of the confinement
- 29 feeding operation, and the application of manure originating
- 30 from the confinement feeding operation. The ordinance may
- 31 include provisions that are more restrictive than otherwise
- 32 provided under state law. The board may place conditions on
- 33 site approval if the conditions relate to the construction or
- 34 operation of the confinement feeding operation or to manure
- 35 application.

- 1 The bill provides that the county may adopt the ordinance
- 2 notwithstanding provisions in Code section 331.304A which
- 3 prohibits a county from adopting legislation that regulates
- 4 animal agriculture and Code section 335.2 which prohibits a
- 5 county from adopting an ordinance that provides for the zoning
- 6 of farm structures.
- 7 The bill would take effect upon enactment.